

## EXHIBIT C

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 05-44481-rdd

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In the matter of:

DPH HOLDINGS CORP., et al.,

Reorganized Debtors.

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United States Bankruptcy Court

One Bowling Green

New York, New York

April 1, 2010

10:44 AM

B E F O R E:

HON. ROBERT D. DRAIN

U.S. BANKRUPTCY JUDGE

VERITEXT REPORTING COMPANY

212-267-6868

516-608-2400

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HEARING re Reorganized Debtors' Emergency Motion for Order

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Under Section 105(a) of the Bankruptcy Code, Fed. R. Bankr. P.

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7004(a) and 9006(b)(1) and Fed. R. Civ. P. 4(m) Extending

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Deadline to Serve Process for Certain Avoidance Actions

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Transcribed by: Lisa Bar-Leib

1 also?

2 THE COURT: Sorry?

3 MS. CALTON: The German Valeo.

4 THE COURT: Oh, yes. They're not in the same  
5 complaint but I'm --

6 MS. CALTON: Yeah.

7 THE COURT: -- including them in the Affinia group of  
8 objectors --

9 MS. CALTON: Okay.

10 THE COURT: -- represented by Honigman Miller.

11 The history of this motion is somewhat lengthy and, I  
12 believe, ultimately not particularly relevant to the present  
13 motion for reasons I'll explain. But it is relevant in one key  
14 respect. The Delphi debtors, like all Chapter 11 debtors, had  
15 a two-year limitations period post-petition, under Section 546  
16 of the Bankruptcy Code, to bring actions to avoid preferences,  
17 fraudulent transfers and the like. Faced with that impending  
18 deadline and with an analysis that showed in excess of 11,000  
19 potential recipients of avoidable transfers, the debtors, with  
20 their -- in consultation with their official creditors'  
21 committee, determined to seek an order that would allow the  
22 debtors to preserve these causes of action notwithstanding the  
23 running of its statute of limitations or to -- in light of the  
24 statute of limitations running -- excuse me -- but delay the  
25 issuance of summonses by the clerk of the court and staying any

1 activity in the adversary actions commenced until service of  
2 process and extending the deadline under Federal Rule 4(m) by  
3 which the debtors would have to serve process.

4 The Court granted that request by order dated August  
5 16th, 2007. Notwithstanding the number of adversary --  
6 potential adversary proceedings they could bring, the debtor  
7 actually brought only 742 within the statute of limitations  
8 period. It, even with respect to those 742, did not actively  
9 seek, as would have been required by the August 16th, 2007  
10 order, to have the summonses issued and proceedings become live  
11 and active for two reasons. The first, which applied at the  
12 time the original motion was entered and continued for some  
13 time, was the good faith belief shared by all parties in the  
14 case that the debtors were on track to confirm and consummate a  
15 Chapter 11 plan that would have paid unsecured creditors in  
16 full or with at least sufficient value so that it would have  
17 made no sense to have actually pursued the avoidance actions or  
18 to have caused the defendants in those actions to incur any  
19 cost in response. That situation pertained at least until  
20 April of 2008. In the meantime, the Court had entered an  
21 extension (sic), in light of that fact, granting a further  
22 extension of the time to serve without prejudice to the  
23 debtors' rights to seek further extension.

24 In April of 2008, the investors under the debtors'  
25 confirmed Chapter 11 plan announced their intention not to

1 close their investment under that plan. It was not clear at  
2 the time whether they could nevertheless be forced to close or  
3 whether the debtors' monetary claims against them would force  
4 them to close as a practical matter. In light of that  
5 uncertainty, the debtors sought another deadline which was  
6 granted in a second extension order dated April 30th, 2008 of  
7 the time to serve 742 complaints.

8 It became clear during the course, the remaining  
9 course of 2008, that the plan investors were not going to close  
10 the plan or a closely similar modified plan and, instead, the  
11 debtors turned their attention to a new plan. During this  
12 period, the debtors also narrowed down the number of potential  
13 proceedings that they determined to pursue but delayed the  
14 prosecution of to 177. The rationale for -- or the primary  
15 rationale for the prior extension orders and the original  
16 preservation order in delaying service at that time, i.e., that  
17 the pursuit of such action might not, in fact, benefit the  
18 estate because it was likely that creditors would receive a  
19 hundred cents or close to a hundred cents on the dollar no  
20 longer applied. However, the debtors concluded that even with  
21 respect to the 177 claims, there may not be a sufficient basis  
22 to pursue those claims actively and force any parties to incur  
23 additional cost in respect thereto.

24 Frankly, by that point in the case, and we're now  
25 focusing on the fall of 2009, it was not clear whether the

1 debtors had sufficient funds to even conduct their case let  
2 alone pursue adversary proceedings. And the specter of  
3 conversion to Chapter 7 where a Chapter 7 trustee would be  
4 pursuing the proceedings was quiet real. Consequently, the  
5 debtors sought, and the Court granted, a third extension motion  
6 extending a deadline under Federal Rule 4(m) to April 5, 2010.  
7 And that order was issued October 2, 2009.

8 As I noted at the beginning of my ruling, when this  
9 motion was filed, the present motion before me, there were  
10 sixty-two adversary proceedings where the debtor was concerned  
11 that service might not be completed by April 5th. Presently,  
12 it appears that there are forty-two, thirty of which fall into  
13 the category of foreign defendant proceedings.

14 There is, and always has been, an issue as to whether  
15 any deadline for service applies with respect to the foreign  
16 corporate defendants because such an issue exists, however.  
17 And as for the existence of the issue, see In re Harnischfeger  
18 Industries, Inc., 288 B.R. 79, 86 (Bankr. D. Del. 2003). The  
19 debtors, exercising, I think, proper discretion to try to avoid  
20 any question about the issue, obtained an extension under  
21 Section 4(m), thus avoiding, as far as through the date of the  
22 extension, any issue that the complaint should be dismissed for  
23 failure to serve within an applicable deadline.

24 The debtors, when posed with this question now as to  
25 whether there is, in fact, a deadline, have taken the position